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10 Attorneys for Defendant
QUICKEN LOANS INC.

11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **WESTERN DIVISION**

15 AMANDA HILL; and GAYLE HYDE,
16 Individually and On Behalf of All
Others Similarly Situated,

17 Plaintiff,

18 v.

19 QUICKEN LOANS INC.,
20 Defendant.

Case No. 5:19-cv-00163-FMO-SP
**SUPPLEMENTAL DECLARATION
OF MITCHELL VINER IN
SUPPORT OF QUICKEN LOANS
INC.'S REPLY MOTION TO
COMPEL ARBITRATION**

Date: June 6, 2019
Time: 10:00 a.m.
Courtroom: 6D
Judge: Hon. Fernando M. Olguin
350 W. 1st Street, 6th Floor,
Los Angeles, CA 90012

Filed concurrently with:
1. Memorandum

SUPPLEMENTAL DECLARATION OF MITCHELL VINER

I, Mitchell Viner, hereby declare and state as follows:

1. I am General Counsel of LMB OpCo, LLC, which is the parent company of LMB Mortgage Services, Inc. d/b/a LowerMyBills.com (“LMB”). I have held this position since October 22, 2012. I make this Supplemental Declaration in support of Quicken Loans Inc.’s motion to compel arbitration. The facts set forth in this Declaration are based on my own personal knowledge, information gathered and provided to me by LMB employees acting under my direction and supervision, my review of the First Amended Complaint, my review of Plaintiffs’ May 9, 2019 opposition (Dkt. No. 37) to Quicken Loans’ motion to compel arbitration, and my review of the Declarations of Frank Hedin and Amanda Hill (Dkt. Nos. 38 & 39) submitted in support of the Opposition.

2. The information provided herein is true and correct to the best of my knowledge, information, and belief, and if called as a witness, I could and would testify competently as to their truth.

3. I have reviewed LMB company records relating to Amanda Hill. These records show that LMB received contact information, including an email address and phone number, for a consumer named “Hill” on October 10, 2018, through submissions made on the LMB-powered website YourVASurvey.Info on that same date. The only way LMB would have obtained this information is if Hill (or someone acting or purporting to act on her behalf) entered that information on the website and submitted it by clicking the submission button on the website.

4. I understand Hill asserts that LMB may have “matched” non-identifying information she may have provided during her visit to YourVASurvey.Info with contact information that was “harvested” from other sources, before providing all of her information to Quicken Loans. That assertion is not correct. LMB does not “harvest” consumer contact information from other sources before providing it to its business partners, nor does it match any

1 “harvested” contact information with other information provided by a user during a
2 visit to an LMB or LMB-powered website. Rather, LMB only receives information
3 that is provided and submitted by a user. With respect to Hill and other users of
4 LMB and LMB-powered websites, LMB only receives the information provided by
5 the user if the user clicks the submission button on the website, and in doing so
6 agrees to the LMB Terms of Use. If Hill or other users do not submit their
7 information by clicking the submission button, then LMB does not receive any
8 information the user may have provided as part of his or her incomplete submission,
9 does not match or attempt to match that information to contact information for the
10 user, and does not provide any information about the user to Quicken Loans.

11 5. LMB company records show that two leads were generated for Hill—
12 one on October 10, 2018 and another on November 12, 2018. These leads were
13 generated because Hill (or someone acting or purporting to act on her behalf)
14 clicked the button to submit her information to LMB on those dates. By clicking the
15 submission button to submit her information, Hill agreed to share her information
16 with third-party providers, like Quicken Loans. If Hill had not clicked the
17 submission button on each of those two dates and agreed to the LMB Terms of Use,
18 no lead would have been generated and sent to Quicken Loans. LMB does not send
19 leads to its business partners or Quicken Loans unless the consumer consents by
20 clicking the submission button to submit his or her information. Thus, LMB only
21 sent Hill’s information to Quicken Loans because Hill (or someone acting or
22 purporting to act on her behalf) clicked the submission button expressing consent
23 and agreement to the LMB Terms of Use on October 10, 2018, and again on
24 November 12, 2018.

25 6. Consumers who do not wish to agree to the LMB Terms of Use may
26 still obtain LMB’s free referral service by sending LMB an email. The disclosures
27 presented to consumers directly below the submission button provide the email
28 address for consumers to use if they do not wish to click the button.

1 7. In October and November 2018, consumers who used mobile devices
2 to visit LMB's website and other websites powered by LMB were presented with
3 the same language and disclosures as consumers who used desktop computers to
4 visit those websites. Consumers who used mobile devices were informed, through
5 language directly below the submission button that, by clicking the button they were
6 agreeing to be contacted, and to the Terms of Use. The Terms of Use were also
7 hyperlinked.

8 8. LMB's Terms of Use were last updated in March 2015.

9 9. Attached as **Exhibit 1** is a spreadsheet which reflects an export of the
10 information relating to Hill that I reviewed in LMB's company records.

11 I declare under penalty of perjury under the laws of the United States of
12 America that the foregoing is true and correct to the best of my current knowledge,
13 information and belief.

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15 Executed on May 23, 2019.

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18 _____
19 MITCHELL VINER
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